

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WILLIAM KACENSKY,

Defendant.

Case No. 2:16-cr-00151-JCM-GWF

**REPORT AND  
RECOMMENDATION**

This matter is before the Court on the Government's Motion to Dismiss Count Two of the Indictment (ECF No. 21), filed on September 6, 2016. Defendant filed a Non-Opposition (ECF No. 24) on September 7, 2016. Also before the Court is Defendant's Motion to Dismiss Count Two of the Indictment (ECF No. 18), filed on August 24, 2016.

Pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure, the Government's seeks to dismiss Count Two of the Indictment (ECF No. 1) without prejudice, which charges Defendant with Aggravated Identity Theft in violation of 18 U.S.C. § 1028A(c). Defendant does not object to the Government's motion and acknowledges that his Motion to Dismiss (ECF No. 18) has been rendered moot. Accordingly,

**RECOMMENDATION**

**IT IS HEREBY RECOMMENDED** that the Government's Motion to Dismiss Count Two of the Indictment (ECF No. 21) be **granted**.

**IT IS FURTHER RECOMMENDED** that Defendant's Motion to Dismiss Count Two of the Indictment (ECF No. 18) be **denied as moot**.

**NOTICE**

Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be in writing and filed with the Clerk of the Court within fourteen (14) days. The Supreme Court has

1 held that the courts of appeal may determine that an appeal has been waived due to the failure to file  
2 objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has  
3 also held that (1) failure to file objections within the specified time and (2) failure to properly  
4 address and brief the objectionable issues waives the right to appeal the District Court's order and/or  
5 appeal factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157  
6 (9th Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

7 DATED this 8th day of September, 2016.

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10 GEORGE FOLEY, JR.  
11 United States Magistrate Judge  
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